

August 30, 2013

To: Executive Board

Subject: **Foothill Transit Disproportionate Burden and Disparate Impact Policies**

Recommendation

Authorize the Executive Director to conduct public outreach to collect public input on Foothill Transit's draft Disproportionate Burden and Disparate Impact policies (**Attachment A**).

Analysis

In order to comply with Federal Transit Administration (FTA) Circular C 4702.1B, Foothill Transit must develop major service change, disparate impact and disproportionate burden thresholds. These thresholds are intended to ensure that major service changes or fare changes do not unfairly burden Foothill Transit's minority and low-income populations. In the event that a major service change does create a disparate impact or disproportionate burden, the Circular stipulates that Foothill Transit should explore options that do not create these impacts. If the impacts cannot be avoided, Foothill Transit must explore any options for mitigating these impacts. To meet the requirements of the Circular, Foothill Transit must evaluate each service change and determine if it exceeds the major service change threshold. When that threshold is exceeded, or when a fare change is proposed, a disparate impact and disproportionate burden analysis is triggered. Once the thresholds have been adopted by the Agency's Board of Directors and submitted in the Agency's triennial Title VI Report to the FTA, the threshold cannot be changed until the next submittal period. The Circular specifies that the policies must be developed with community input. The following policies outline staff recommendations for the major service change, disparate impact and disproportionate burden thresholds to be brought to the public for discussion.

Major Service Change:

If a major service change is being planned by Foothill Transit, a disparate impact and disproportionate burden analysis is triggered. Foothill Transit's current Joint Powers Authority rules specify that service modifications which affect less than 25 percent of the miles in a route, and less than 25 percent of the riders on a route can be determined by the Executive Board without Governing Board approval. Therefore, **any change that affects more than 25 percent of revenue service miles travelled, or more than 25 percent of the riders on a route**, is considered to be a major service change. A major service change also includes the creation of a new line. This major service change definition does not apply to any temporary service change that lasts less than 12 months.

Executive Board Meeting – 08/30/13
Foothill Transit Disproportionate Burden and Disparate Impact
Policies
Page 2

Fare Change:

Any fare change, whether it is an increase, decrease or the introduction of new fare category or media, is subject to a Fare Equity Analysis. Exceptions are defined by the FTA as:

1. “Spare the air days” or other instances when a local municipality or transit agency has declared that all passengers ride free;
2. Temporary fare reductions that are mitigating measures for other actions; or
3. Promotional fare reductions that last less than six months.

Disparate Impact Threshold:

Disparate impact refers to the adverse effects which may be borne by the minority population affected by the service or fare change. Minority persons as defined by the U.S. Census include American Indian and Alaska Native, Asian, Black or African American, Hispanic or Latino and Native Hawaiian or Other Pacific Islander. The FTA describes the purpose of the disparate impact threshold to “define statistically significant disparity” and specifies that the threshold should be presented as a statistical percentage of impacts borne by minority populations affected by the service or fare change compared to the total minority population of the service area.

Foothill Transit anticipates a reasonable threshold for Foothill Transit’s service area to exist between **10 to 20 percent**, which means that is that if the difference between the minority population affected by the service or fare change is between 10 and 20 percent or higher than the minority population of the overall service area, a disparate impact exists. This threshold is based on the cumulative impact of the proposed service or fare change. For example, if one line in a particular area within Foothill Transit’s service area is being removed to be replaced by another line in that same area with more frequent headways, the impacts of each change will be examined cumulatively.

Practical Application of the Disparate Impact Threshold:

Although it is difficult to compare policies across agencies because each agency’s policy should be reflective of its own population, we can look to other agency policies for guidance. For example, Los Angeles Metro defines a disparate impact for major service changes “if the absolute difference between the percentage of minorities adversely affected and the overall percentage of minorities is at least 5 percent or if there is a 20 percent or greater difference between the percentages of these two groups.” San Mateo County Transit defines its threshold as “20 percent based on the cumulative impact of the proposed service and/or fare changes. This threshold applies to the difference of the impacts borne by minority populations compared to the same impacts borne by non-minority populations.”

Analysis of Foothill Transit’s own service area gives insight into what an appropriate threshold may be. For example, if changes were made to the entire route of Line 187

Executive Board Meeting – 08/30/13
Foothill Transit Disproportionate Burden and Disparate Impact
Policies
Page 3

spanning from Montclair to Pasadena, the difference between the affected minority population and overall minority population is 6.23 percent; this does not exceed the draft threshold. However, if changes were made to Line 486 only affecting the most highly minority tracts in Walnut, the difference is 15.74 percent. If changes were made to Line 187 only between Pasadena and Monrovia, the difference would be 13.24 percent.

Disproportionate Burden Threshold:

Disproportionate burden refers to the adverse effects which may be borne by the low-income population affected by the service or fare change. The FTA requires that an agency's definition of low-income be at least as inclusive as the U.S. Department of Health and Human Services poverty guidelines. Foothill Transit considers low-income to be a household that earns 30 percent or less of the median household income in its service area. Based on American Community Survey Selected Economic Characteristics 2010 1 Year Estimates, the average median household income in Foothill Transit's service area is \$68,310.54; therefore, the low income threshold is \$20,493.16. Because the census reports household income in \$10,000 increments (after \$15,000), Foothill Transit considers any household with an income less than \$25,000 as "low-income." The FTA describes the purpose of the disparate impact threshold to "define statistically significant disparity" and specifies that the threshold should be presented as a statistical percentage of impacts borne by low-income populations affected by the service or fare change compared to the total low-income population of the service area.

Foothill Transit anticipates a reasonable threshold for Foothill Transit's service area to exist between **10 to 20 percent**, which means that is that if the difference between the low-income population affected by the service or fare change is between 10 and 20 percent or higher than the low-income population of the overall service area, a disparate impact exists. This threshold is based on the cumulative impact of the proposed service or fare change. For example, if one line is being removed to be replaced by another line with more frequent headways, the impacts of each change will be examined cumulatively.

Practical Application of the Disproportionate Burden Threshold:

Again, it is difficult to compare policies across agencies because each agency's policy should be reflective of its own population, we can look to other agency policies for guidance. Both Los Angeles Metro and San Mateo County Transit set the same Disproportionate Burden Threshold as the Disparate Impact Threshold.

Analysis of Foothill Transit's own service area gives insight into what an appropriate threshold may be. For insight, we can look at the changes discussed above to see how they impact the low-income population. For example, if changes were made to the entire route of Line 187 spanning from Montclair to Pasadena, the difference between

Executive Board Meeting – 08/30/13
Foothill Transit Disproportionate Burden and Disparate Impact
Policies
Page 4

the affected low income population and overall low income population is less than one percent; and this does not exceed the draft threshold. If changes were made to Line 486 only affecting the most highly minority tracts in Walnut, the difference between the affected low income population and overall low income population is -9.26 percent, which shows that the area is actually more affluent than the average population within the Foothill Transit service area. Finally, if changes were made to Line 187 only between Pasadena and Monrovia, the difference would be 0.55 percent. However, if changes were made to Line 291 within the area housing the most low-income tracts, the difference is 15.3 percent. Again, if changes are made to Line 178 housing the most low-income tracts, the difference is 19.77 percent.

Data and Methodology:

Foothill Transit services a very diverse population. The minority population of the entire service area is 73.2 percent, and the low-income population is 17.3 percent. Data for the minority population was derived from the 2010 Census Demographic Profile 1 organized at the tract level, and data for the low-income population was derived from the American Community Survey data (Table DP03 Selected Economic Characteristics ACS 2011 5-year estimates) organized at tract level. Tracts within ¼ of a mile of Foothill Transit bus stops were used to calculate the percentages presented.

Census data can be used for service equity analysis; however, survey data reflecting actual ridership must be used for the fare equity analysis. The FTA recommends that ridership data be used as in lieu of Census data, if ridership data is available.

Next Steps

Foothill Transit anticipates that a reasonable threshold for the Foothill Transit service area exists between **10 and 20 percent** for both disparate impact and disproportionate burden. The staff recommendation is that this window be presented to the community for discussion. Once feedback has been collected, a final threshold will be presented to the Executive Board for adoption.

Sincerely,



Britt Card
Transit Planner



Doran J. Barnes
Executive Director

Foothill Transit Disproportionate Burden and Disparate Impact Policies

Introduction:

In order to comply with Federal Transit Administration (FTA) Circular C 4702.1B, Foothill Transit must develop major service change, disparate impact and disproportionate burden thresholds. These thresholds are intended to ensure that major service changes or fare changes do not unfairly burden Foothill Transit's minority and low-income populations. In the event that a major service change does create a disparate impact or disproportionate burden, the Circular stipulates that Foothill Transit should explore options that do not create these impacts. If the impacts cannot be avoided, Foothill Transit must explore any options for mitigating these impacts.

To meet the requirements of the Circular, Foothill Transit must evaluate each service change and determine if it exceeds the major service change threshold. When that threshold is exceeded, or when a fare change is proposed, a disparate impact and disproportionate burden analysis is triggered. Once the thresholds have been adopted by the Agency's Board of Directors and submitted in the Agency's triennial Title VI Report to the FTA, the threshold cannot be changed until the next submittal period.

The Circular specifies that the policies must be developed with community input. The following policies outline staff recommendations for the major service change, disparate impact and disproportionate burden thresholds to be brought to the public for discussion.

Major Service Change:

If a major service change is being planned by Foothill Transit, a disparate impact and disproportionate burden analysis is triggered. Foothill Transit's current Joint Powers Authority rules specify that service modifications which affect less than 25 percent of the miles in a route, and less than 25 percent of the riders on a route, can be determined by the Executive Board without Governing Board approval. Therefore, **any change that affects more than 25 percent of revenue service miles travelled, or more than 25 percent of the riders on a route**, is considered to be a major service change. A major service change also includes the creation of a new line. This major service change definition does not apply to any temporary service change that lasts less than 12 months.

Fare Change:

Any fare change, whether it is an increase, decrease or the introduction of new fare category or media, is subject to a Fare Equity Analysis. Exceptions are defined by the FTA as:

Foothill Transit Disproportionate Burden and Disparate Impact Policies

1. “Spare the air days” or other instances when a local municipality or transit agency has declared that all passengers ride free;
2. Temporary fare reductions that are mitigating measures for other actions; or
3. Promotional fare reductions that last less than six months.

Disparate Impact Threshold:

Disparate impact refers to the adverse effects which may be borne by the minority population affected by the service or fare change. Minority persons as defined by the U.S. Census include American Indian and Alaska Native, Asian, Black or African American, Hispanic or Latino and Native Hawaiian or Other Pacific Islander. The FTA describes the purpose of the disparate impact threshold to “define statistically significant disparity” and specifies that the threshold should be presented as a statistical percentage of impacts borne by minority populations affected by the service or fare change compared to the total minority population of the service area.

Foothill Transit anticipates a reasonable threshold for Foothill Transit’s service area to exist between **10 to 20 percent**, which means that is that if the difference between the minority population affected by the service or fare change is between 10 and 20 percent or higher than the minority population of the overall service area, a disparate impact exists. This threshold is based on the cumulative impact of the proposed service or fare change. For example, if one line in a particular area within Foothill Transit’s service area is being removed to be replaced by another line in that same area with more frequent headways, the impacts of each change will be examined cumulatively.

Disproportionate Burden Threshold:

Disproportionate burden refers to the adverse effects which may be borne by the low-income population affected by the service or fare change. The FTA requires that an agency’s definition of low-income be at least as inclusive as the U.S. Department of Health and Human Services poverty guidelines. Foothill Transit considers low-income to be a household that earns 30 percent or less of the median household income in its service area. Based on American Community Survey Selected Economic Characteristics 2010 1 Year Estimates, the average median household income in Foothill Transit’s service area is \$68,310.54; therefore, the low income threshold is \$20,493.16. Because the census reports household income in \$10,000 increments (after \$15,000), Foothill Transit considers any household with an income less than \$25,000 as “low-income.” The FTA describes the purpose of the disparate impact threshold to “define statistically significant disparity” and specifies that the threshold should be presented as a statistical percentage of impacts borne by low-income populations affected by the service or fare change compared to the total low-income population of the service area.

Foothill Transit Disproportionate Burden and Disparate Impact Policies

Foothill Transit anticipates a reasonable threshold for Foothill Transit's service area to exist between **10 to 20 percent**, which means that is that if the difference between the low-income population affected by the service or fare change is between 10 and 20 percent or higher than the low-income population of the overall service area, a disparate impact exists. This threshold is based on the cumulative impact of the proposed service or fare change. For example, if one line is being removed to be replaced by another line with more frequent headways, the impacts of each change will be examined cumulatively.

Data and Methodology:

Foothill Transit services a very diverse population. The minority population of the entire service area is 73.2 percent, and the low-income population is 17.3 percent. Data for the minority population was derived from the 2010 Census Demographic Profile 1 organized at the tract level, and data for the low-income population was derived from the American Community Survey data (Table DP03 Selected Economic Characteristics ACS 2011 5-year estimates) organized at tract level. Tracts within ¼ of a mile of Foothill Transit bus stops were used to calculate the percentages presented.

Census data can be used for service equity analysis; however, survey data reflecting actual ridership must be used for the fare equity analysis. The FTA recommends that ridership data be used as in lieu of Census data, if ridership data is available.